

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  UNAUTHORIZED CHANGES IN TELECOMMUNICATIONS SERVICE	DOCKET NO. RMU-99-7
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**ORDER ADOPTING RULES**

(Issued April 18, 2000)

Pursuant to the authority of Iowa Code §§ 476.2, 476.3(1), and 476.103 (1999), the Utilities Board adopts the amendments attached hereto and incorporated by reference. This rule adopts amendments to subrules 6.8(1), 6.8(2), 6.8(3), 22.23(1), and 22.23(2) and adds new subrules 22.23(3), (5), and (6). The reasons for these amendments are set forth in the attached notice of intended action.

**IT IS THEREFORE ORDERED:**

1. The amended rules attached hereto, and incorporated by this reference, are adopted by the Board, effective June 7, 2000.
2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

**UTILITIES BOARD**

/s/ Allan T. Thoms

ATTEST:

/s/ Raymond K. Vawter, Jr.      /s/ Diane Munns  
Executive Secretary

Dated at Des Moines, Iowa, this 18<sup>th</sup> day of April, 2000.

## UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 476.2, 476.3(1), and 476.103, the Utilities Board (Board) gives notice that on April 18, 2000, the Board issued an order in Docket No. RMU-99-7, In re: Unauthorized Changes In Telecommunications Service, "Order Adopting Rules," adopting amendments to subrules 6.8(1), 6.8(2), 6.8(3), 22.23(1), and 22.23(2) and adding new subrules 22.23(3), (5), and (6).

On July 23, 1999, the Board issued a Notice of Intended Action to consider amendments by adding these new subrules. The proposed rule making was published in the IAB Vol. XXII No. 3 (8/11/99), pp. 189-193, as **ARC 9267A**. Comments were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), U S WEST Communications, Inc. (U S WEST), Billing Concepts, Inc. (BCI), GTE Communications Corporation (GTE), and joint comments filed by AT&T Communications of the Midwest, Inc., and Sprint Communications, L.P. (AT&T/Sprint). An oral presentation concerning these new rules was held on October 21, 1999.

Simultaneously with this proposed rule making the Board issued an order in Docket No. RMU-99-8, Unauthorized Changes of Telecommunications Service (Emergency Rules), "Order Adopting Rules Without Notice and Providing for Early Effective Date." The emergency rule was published in the IAB Vol. XXII No. 3 (8/11/99), pp. 196-198, as **ARC 9268A**.

These amendments are to implement a new statute, entitled "An Act Prohibiting Unauthorized Changes in Telecommunications Service, Prohibiting Certain Acts in the

Advertisement or Solicitation of Changes in Telecommunications Service, and Providing Remedies and Penalties," Iowa Code section 476.103, which became effective July 1, 1999. The new statute provides the Board with the authority to adopt rules to protect customers from unauthorized changes in their telecommunications service, even if the service has been deregulated pursuant to Iowa Code section 476.1D. Additional remedies are provided to the Attorney General to address the issue of fraud in the sale of telecommunications services.

Unauthorized changes in telecommunications service may take a variety of forms. Unauthorized changes in a customer's preferred carrier are sometimes referred to as slamming, while the addition of unauthorized services to a customer's bill is sometimes called cramming. These activities represent a growing area of concern for telecommunications customers in Iowa.

In 1996, the Board deregulated most interexchange services, pursuant to Iowa Code section 476.1D. Since that time, the Board has had limited jurisdiction over the part of the telecommunications market where most slamming has occurred. Nonetheless, the Board continues to receive a significant number of complaints. In 1998, Board staff responded to 428 calls regarding slamming issues and 174 calls alleging cramming. In 1997, Board staff fielded 211 slamming calls (cramming complaints were not separately tracked).

The Consumer Protection Division of the Attorney General's Office also processes many complaints regarding telecommunications services. The Board understands that the Consumer Protection Division received about 275 such complaints in 1995, 480 complaints in 1996, 937 complaints in 1997, and approximately 1,300 complaints in 1998. The trend is clear and disturbing.

Pursuant to Iowa Code section 476.103, the proposed new subrules will apply with equal force to regulated and deregulated services. The Board's rules must be consistent with the regulations of the Federal Communications Commission (FCC) regarding procedures for verification of customer authorization of a change in service. The FCC verification procedures include written or electronic authorization or independent third-party verification.

The Board's rules must also provide for (1) customer notification of any changes in service, (2) procedures for customer account change freezes, and (3) procedures for correcting unauthorized changes and compensating customers and other persons whose interests may be damaged by an unauthorized change in service. Finally, Iowa Code section 476.103 gives the Board expanded remedial authority with respect to telecommunications service providers that make unauthorized changes, including civil penalties for any violations of the statute or rules and more severe penalties for patterns of violations.

On December 17, 1998, the FCC issued an order in The Matter of Implementation of the Consumer Carrier Selection Provisions of the Telecommunications Act of 1996, CC Docket No. 94-129 (the "FCC Order"), adopting new rules intended to protect each customer's choice of telecommunications service providers. The majority of the FCC's slamming rules took effect on April 27, 1999.

Generally, the complaints will be resolved pursuant to the Board's standard complaint procedures, with informal proceedings, a proposed resolution from Board staff, and an option for formal complaint proceedings in appropriate cases. However, a few special procedures will apply. For example, the time for the telephone utility's response to the initial complaint will be reduced to ten days, to be consistent with the

FCC's verification procedures, and the proposed resolution may include an assessment of damages among the interested persons in each complaint proceeding, pursuant to Iowa Code section 476.103. In this context, the Board interprets the term "assessment of damages" to mean, in most cases, an allocation of the various telecommunications service charges at issue. Thus, the proposed resolution (or a Board order following formal complaint proceedings) will allocate responsibility for primary interexchange carrier (PIC) change charges, service charges, and other charges that have appeared or may appear on the customer's bill, but in the absence of unusual circumstances the proposed resolution or order will not assess among the parties any responsibility for incidental, consequential, punitive, or similar damages.

Consumer Advocate suggests that the requirement for complaints to be written be eliminated. The Board agrees that it is appropriate to receive telephone and other oral complaints, which can be reduced to writing by Board staff for delivery to the company involved. The proposed subrule will be revised accordingly.

Proposed subrule 6.8(6) prohibits any action to re-bill, directly bill, or otherwise collect any disputed charges for a change in service until after Board action on a complaint is final. Consumer Advocate suggests that all disputed amounts should be removed from a customer's bill. AT&T/Sprint complain that it is not always possible to remove a disputed amount from a customer's bill while the dispute is being investigated. They say that they will not attempt to collect the disputed amount while the claim is being investigated. However, by leaving the disputed amount on a customer's bill as part of the amount due, an attempt to collect the disputed amount is being made. The Board has not been persuaded by the possible difficulties expressed by AT&T/Sprint that the proposed rule should be altered to permit a disputed amount to

appear on a customer's bill as part of the amount due. If the disputed amount can be separated from the amount due, and identified for the customer separate from the amount currently due, the Board would agree that there is no longer a current attempt being made to recover the disputed amount. The Board's concern is that the disputed amount does not appear as part of a past due amount that will then become part of a collection situation affecting a customer's credit history.

Item 2, subrule 22.23(1), includes definitions of "slamming" (unauthorized changes in a customer's preferred service provider), "cramming" (unauthorized additions or changes to the services on a customer account, for which a separate charge is made), and "jamming" (unauthorized account freezes that make it more difficult for a customer to change service providers upon demand).

U S WEST and Consumer Advocate suggested that the definition of "consumer" is too broad, expressing concern that the definition could include persons who do not (or should not) have the authority to make changes to an account. It was suggested that the definition for "subscriber" be substituted, meaning the person whose name appears on the account and others authorized to make changes on the account. The Board finds merit with this concern but prefers to use the term "customer" rather than "subscriber." The Board will revise the subrule by adding the term "customer" and its definition and substituting the term "customer" with a more limited definition as suggested.

U S WEST also suggests that the definition of "slamming" should include an element of fault to prevent the punishment of "inadvertent" changes that are not the result of negligence, recklessness, or intentional conduct. The Board will not revise the definition, which merely requires verified consent for all designations of new providers.

Consumer Advocate suggests the addition of a general, flexible prohibition of all fraudulent conduct. The Board understands the concern of Consumer Advocate, but is not persuaded that any additional language is necessary to attain this goal.

AT&T, at the oral presentation, suggested the definition of "Preferred carrier freeze" currently relates to a freeze on an "account" rather than on the customer's carrier choice. The FCC does not permit account-level freezes. AT&T suggests that the word 'account' be changed to 'preferred carrier choices' to alleviate this problem. The Board agrees with this suggestion and will revise the definition as indicated.

AT&T, MCI, and Sprint made additional suggestions after the conclusion of the oral presentation to alter the definition of "service provider." Additionally, they suggested that a definition be added to define the term "damages" so that it would not include incidental, consequential, or punitive damages. The Board will adopt these additional suggestions.

Also in Item 2, proposed subrule 22.23(2) prohibits unauthorized changes in service and provides for verification of all changes to a customer account, along with customer notification of any such changes. Changes made at the request of a submitting service provider must be verified using one of the three FCC-approved verification procedures. Changes made as a result of a direct customer request to the executing service provider may be verified using the FCC procedures or through the internal records of the executing service provider, if those records contain sufficient information to establish the date and time of the request and the identity of the requesting customer. The proposed rules require that all verifications must be maintained for at least two years from the date the change is implemented. Verification of a preferred carrier

freeze, however, must be maintained for the life of the freeze, since a customer may not be aware of an unauthorized freeze until the customer tries to change the service.

The proposed rules require customer notification of all changes in service within 30 days of the effective date of the change, as required by Iowa Code section 476.103.

The notice must clearly and conspicuously identify the change, any charge or fee associated with the change, and the name and toll-free contact number of the service provider responsible for the change. This information may be included as a line item in the billing portion of the customer's bill, as a separate written statement on the bill, in a separate mailing to the customer, or by such other means as will provide the required information in a clear and conspicuous manner.

The proposed rules adopt by reference the FCC regulations regarding preferred carrier freezes. GTE supported the Board proposal to adopt the FCC verification procedures by reference. Consumer Advocate suggested that it would be more appropriate to rewrite or include the specific language from the FCC rule that it intends to use in these regulations. This should include any change in terms from the FCC rule to match the terms used in Iowa and contained in the definitions proposed. Consumer Advocate additionally suggested that several provisions be added to the FCC verification procedures to add specificity. The Board agrees with the suggestion that the FCC rules be rewritten to include the specific terminology of these rules and included within these regulations. The Board rejects the suggestions of Consumer Advocate that additional provisions are necessary to add greater specificity to the verification procedures.

Consumer Advocate recommends that proposed subrule 22.23(2) specifically prohibit a telecommunications carrier from taking any action to make a "change in



service" without the customer's "verified consent," arguing that this change is necessary to bring the substantive conduct in conformance with the definitions. The Board will adopt this suggestion.

AT&T/Sprint submit that the definitions do not appear to address authorization by use. They suggest that an authorized change in telephone service should include telecommunications services that are used, initiated, or requested by the customer, including "dial-around" services such as "10-10-XXX," directory assistance, operator-assisted calls, acceptance of collect calls, and other casual calling by the customer. The choice to use the service indicates authorization of the charges for that service. The Board agrees with the suggestion that additional language is necessary to ensure that such services that are initiated, or requested by the customer are not inaccurately characterized as cramming. The Board considers the inclusion of "used" to make the definition too broad.

Subrule 22.23(3) requires that all carriers providing or billing for telecommunications services to customers located in Iowa register with the Board, using the form provided. This will allow the Board to assemble a directory of telephone service providers offering services in Iowa, permitting Board staff to contact each of them in the event a customer complaint is received. This directory is a critical part of the Board's power to enforce these rules. As noted previously, in 1998 the Board received 428 calls alleging slamming. These calls appeared to involve over 100 non-local service providers. In some cases, the service provider's name (as provided by the complaining customer) appears to be a variation on the name of another, often well-known, carrier. This sometimes makes it difficult for the Board to determine whether the alleged slammer is an established carrier or a new entrant that may have intentionally adopted a similar

name in an attempt to confuse potential customers. The directory should help to resolve these issues more easily and quickly.

Consumer Advocate has suggested that the Board should require additional information on the proposed registration form. Consumer Advocate argues that this additional information will assist in ascertaining the precise identity of service providers and will be relevant to the Board as it monitors the entity's actual conduct in its interactions with Iowa customers. The Board is not convinced that this additional information is necessary, nor that it will add significantly to the Board's ability to monitor an entity's conduct. The Board will adopt the proposed registration form, without change.

Proposed subrule 22.23(4) refers the reader to Chapter 6 of the Board's rules for the applicable complaint procedures.

U S WEST, BCI, and GTE all object to the requirement that the service provider inform the customer of the right to contact the Board regarding the complaint and to provide the Board's toll-free number. They argue that Iowa Code section 476.103(3)"e" requires that the Board rules encourage service providers to resolve customer complaints without involvement of the Board. Conversely, Consumer Advocate suggests that the Board should increase its involvement in each company's dispute resolution efforts by adopting rules that would require each service provider to make available a toll-free number for complaints, on a 24-hour, 7 day a week, basis. The Board is not persuaded by the suggestion that requiring the provision of its toll-free number to customers who contact a service provider with a complaint is in violation of Iowa Code section 476.103(3)"e." The use of the Board's informal complaint process as described in Chapter 6 of the Board's rules will encourage rapid resolution without

invoking formal proceedings and thus, bringing the matter before the Board. The proposed subrule 22.23(4) will be adopted without revision.

Proposed subrule 22.23(5) provides penalties for violations of the anti-slamming statute or rules. These include civil penalties for any violation of the provisions of Iowa Code section 476.103, or the proposed Board rules, along with more severe sanctions for behavior revealing a pattern of violations on the part of a telephone service provider. The Board has not proposed a specific number of violations that will establish a pattern of violations in proposed subrule 22.23(6); the number may vary depending upon the circumstances. For example, a service provider that has only ten customers in the state, all ten of whom are the victims of slamming, may have demonstrated a pattern of violations sufficient to justify severe sanctions, while a service provider with hundreds of thousands of customers in Iowa and 20 slamming complaints may be experiencing only a small percentage of inadvertently mishandled customer requests, which may not amount to a pattern of violations. Further complicating the question of what constitutes a pattern of violations is the fact that as service offerings become more numerous and complex, the resulting confusion is likely to produce more service order errors, both by customers and service providers. For these reasons, the Board proposed to determine whether a provider has shown a pattern of violations based upon the facts of each specific situation, after notice to the affected persons and an opportunity for hearing.

AT&T/Sprint raise a concern with the provision that offers the possibility of joint and several damages in the event of a soft slam, arguing the provision is inconsistent with Iowa law, violates due process, and imposes liability on innocent wholesale carriers. The soft slam language is discretionary as to Board penalties. It is reasonable for the

Board to be able to consider any liability attributable to the provider of the wholesale services in a soft slam situation on a case-by-case basis.

Consumer Advocate suggested that the rules also reference the customer-specific enforcement authorized by the new statute. In addition, Consumer Advocate urged the Board to significantly increase the penalties proposed in its rules. In contrast, GTE, AT&T/Sprint, and U S WEST suggested that the proposed rules relating to civil penalties should be limited. The Board rejects the suggestions of all the commentors and will adopt the proposed subrule without modification. The subrule, as proposed, offers a flexible range of remedies to be applied on a case-by-case basis.

Finally, proposed subrule 22.23(7) includes provisions for addressing complaints between telephone service providers. Iowa Code section 476.103 grants primary jurisdiction over this subject matter to the Board. The proposed rule includes a provision permitting any party to request that a matter be immediately docketed as a formal complaint proceeding, bypassing the informal process, in appropriate circumstances. The Board will adopt this proposed subrule without change.

Consumer Advocate recommended the Board adopt additional rules requiring service providers take certain minimum steps toward educating customers regarding slamming, cramming, and their rights. Although the Board can certainly see some benefit in such a requirement, it is likely beyond the scope of the notice in this docket, which included no requirements for customer education. The Board will not adopt any customer education requirements at this time.

Consumer Advocate provided examples of slamming rules from many other states as examples and suggestions for modifications of language. The Board reviewed those

examples and where not specifically adopted, has rejected each one of those suggested revisions.

These amendments are intended to implement Iowa Code sections 476.2, 476.3(1), and 476.103.

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The following amendments are adopted.

Item 1. Amend 199 IAC 6.8(1) and (2) as follows:

**199-6.8(1)** Upon receipt of the complaint and with the customer's acknowledgement, a copy of the complaint or a notification of receipt of a telephone, or other oral complaint, will be forwarded to the executing service provider and the preferred service provider as a request for a change in the customer's service to the customer's preferred service provider, unless the service has already been changed to the preferred service provider.

**6.8(2)** The complaint or notification of receipt of a telephone, or other oral complaint, will also be forwarded to the alleged unauthorized service provider. That entity shall file a response to the complaint within ten days of the date the complaint or notification of receipt of a telephone, or other oral complaint, was forwarded. The response must include proof of verification of the customer's authorization for a change in service or a statement that the unauthorized service provider does not have such proof of verification.

**6.8(3)** If the alleged unauthorized service provider includes with its response alleged proof of verification of the customer's authorization for a change in service, then the response will be forwarded to the customer. The customer will have ten days to challenge the verification or otherwise reply to the service provider's response.

Item 2. Amend 199 IAC 22.23(1) and (2) as follows:

**199–22.23(476) Unauthorized changes in telephone service.**

**22.23(1) Definitions.** As used in this rule, unless the context otherwise requires:

*"Change in service"* means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, and includes the addition or deletion of a telecommunications service for which a separate charge is made to a customer account.

*"Consumer"* means a person other than a service provider who uses a telecommunications service. *"Cramming"* means the addition or deletion of a product or service for which a separate charge is made to a telecommunication customer's account without the verified consent of the affected customer. Cramming does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made. Cramming does not include telecommunications services that are initiated or requested by the customer, including dial-around services such as "10-10-XXX," directory assistance, operator-assisted calls, acceptance of collect calls, and other casual calling by the customer.

*"Customer"* means the person other than a service provider whose name appears on the account and others authorized by that named person to make changes to the account.

*"Executing service provider"* means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider or from its own customer.

*"Jamming"* means the addition of a preferred carrier freeze to a customer's account without the verified consent of the customer.

*"Letter of agency"* means a written document complying with the requirements of 199 IAC 22.23(2)b.

*"Preferred carrier freeze"* means the limitation of a customer's preferred carrier choices so as to prevent any change in preferred service provider for one or more services unless the customer gives the service provider from which the freeze was requested the customer's express consent.

*"Service provider"* means a person providing a telecommunications service, not including commercial mobile radio service.

*"Slamming"* means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, without the verified consent of the customer.

*"Soft slam"* means an unauthorized change in service by a service provider that uses the carrier identification code (CIC) of another service provider, typically through the purchase of wholesale services for resale.

*"Submitting service provider"* means a service provider who requests another service provider to execute a change in service.

*"Telecommunications service"* means a local exchange or long distance telephone service other than commercial mobile radio service.

*"Verified consent"* means verification of a customer's authorization for a change in service.

**22.23(2)** *Prohibition of unauthorized changes in telecommunications service.*

*a. Verification required.* No service provider shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with one of the following procedures:

(1) The service provider has obtained the customer's written authorization in a form that meets the requirements of 199 IAC 22.23(2)b; or

(2) The service provider has obtained the customer's electronic authorization to submit the preferred carrier change order. Such authorization must be placed from the telephone number(s) on which the preferred carrier is to be changed and must confirm the information required in paragraph (1) of this section. Service providers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the preferred carrier change, including automatically recording the originating automatic numbering identification; or

(3) An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data (e.g., the customer's date of birth or social security number). The independent third party must not be owned, managed, controlled, or directed by the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred carrier change orders for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's



marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred carrier change; or

(4) For customer originated changes to existing accounts only, through maintenance of sufficient internal records to establish a valid customer request for the change in service. At a minimum, any such internal records must include the date and time of the customer's request and adequate verification of the identification of the person requesting the change in service. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer's request for the change in service.

All verifications shall be maintained for at least two years from the date the change in service is implemented. Verification of service freezes shall be maintained for as long as the preferred carrier freeze is in effect.

*b. Letter of agency form and content.*

(1) A service provider may use a letter of agency to obtain written authorization and/or verification of a customer's request to change his or her preferred service provider selection. A letter of agency that does not conform with this section is invalid for purposes of this part.

(2) The letter of agency shall be a separate document (or an easily separable document) containing only the authorizing language described in paragraph (5) of this section having the sole purpose of authorizing a service provider to initiate a preferred service provider change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the preferred service provider change.

(3) The letter of agency shall not be combined on the same document with inducements of any kind.

(4) Notwithstanding paragraphs (2) and (3) of this section, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in paragraph (5) of this section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the customer is authorizing a preferred service provider change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

(5) At a minimum, the letter of agency must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

- a. The customer's billing name and address and each telephone number to be covered by the preferred service provider change order;
- b. The decision to change the preferred service provider from the current service provider to the soliciting service provider;
- c. That the customer designates [insert the name of the submitting service provider] to act as the customer's agent for the preferred service provider change;
- d. That the customer understands that only one service provider may be designated as the customer's interstate or interLATA preferred interexchange service provider for any one telephone number. To the extent that a jurisdiction allows the selection of additional preferred service providers (e.g., local exchange, intraLATA/intrastate toll,

interLATA/interstate toll, or international interexchange) the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

e. That the customer understands that any preferred service provider selection the customer chooses may involve a charge to the customer for changing the customer's preferred service provider.

(6) Any service provider designated in a letter of agency as a preferred service provider must be the service provider directly setting the rates for the customer.

(7) Letters of agency shall not suggest or require that a customer take some action in order to retain the customer's current service provider.

(8) If any portion of a letter of agency is translated into another language then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions or instructions provided with the letter of agency.

c. *Customer notification.* Every change in service shall be followed by a written notification to the affected customer to inform the customer of the change. Such notice shall be provided within 30 days of the effective date of the change. Such notice may include, but is not limited to, a conspicuous written statement on the customer's bill, a separate mailing to the customer's billing address, or a separate written statement included with the customer's bill. Each such statement shall clearly and conspicuously identify the change in service, any associated charges or fees, the name of the service provider associated with the change, and a toll-free number by which the customer may inquire about or dispute any provision in the statement.

*d. Preferred carrier freezes.*

(1) A preferred service provider freeze (or freeze) prevents a change in a customer's preferred service provider selection unless the customer gives the service provider from whom the freeze was requested his or her express consent. All local exchange service providers who offer preferred service provider freezes must comply with the provisions of this section.

(2) All local exchange service providers who offer preferred service provider freezes shall offer freezes on a nondiscriminatory basis to all customers, regardless of the customer's service provider selections.

(3) Preferred service provider freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (e.g., local exchange, intraLATA/intrastate toll, interLATA/interstate toll, and international toll) subject to a preferred service provider freeze. The service provider offering the freeze must obtain separate authorization for each service for which a preferred service provider freeze is requested.

(4) Solicitation and imposition of preferred service provider freezes.

a. All solicitation and other materials provided by a service provider regarding preferred provider freezes must include:

i. An explanation, in clear and neutral language, of what a preferred service provider freeze is and what services may be subject to a freeze;

ii. A description of the specific procedures necessary to lift a preferred service provider freeze; an explanation that these steps are in addition to the verification rules in 199 IAC 22.23(2)"a" and 22.23(2)"b" for changing a customer's preferred service

provider selections; and an explanation that the customer will be unable to make a change in service provider selection unless he or she lifts the freeze; and

iii. An explanation of any charges associated with the preferred carrier freeze.

b. No local exchange carrier shall implement a preferred service provider freeze unless the customer's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

i. The local exchange carrier has obtained the customer's written and signed authorization in a form that meets the requirements of 199 IAC 22.23(2)"d"(4)"c"; or

ii. The local exchange carrier has obtained the customer's electronic authorization, placed from the telephone number(s) on which the preferred service provider freeze is to be imposed, to impose a preferred service provider freeze. The electronic authorization should confirm appropriate verification data (e.g., the customer's date of birth or social security number) and the information required in 199 IAC 22.23(2)"d"(4)"c"(ii) 1) through 4). Service providers electing to confirm preferred service provider freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the numbers(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the preferred service provider freeze request, including automatically recording the originating automatic numbering identification; or

iii. An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred service provider freeze and confirmed the appropriate verification data (e.g., the customer's date of birth or social security number) and the information required in 199 IAC 22.23(2)"d"(4)"c"(ii) 1) through 4). The independent third party must not be owned, managed, or directly controlled by the

service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred service provider freeze requests for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred service provider freeze.

c. A local exchange service provider may accept a customer's written and signed authorization to impose a freeze on his or her preferred service provider selection. Written authorization that does not conform with this section is invalid and may not be used to impose a preferred service provider freeze.

i. The written authorization shall comply with 199 IAC 22.23(2)"b"(5)"b", "c", and "h" of these rules concerning the form and content for letters of agency.

ii. At a minimum, the written authorization must be printed with a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms: 1) the customer's billing name and address and the telephone number(s) to be covered by the preferred service provider freeze; 2) the decision to place a preferred service provider freeze on the telephone number(s) and particular service(s). To the extent that a jurisdiction allows the imposition of preferred service provider freezes on additional preferred service provider selections (e.g., for local exchange, intraLATA/intrastate toll, interLATA/interstate toll service, and international toll), the authorization must contain separate statements regarding the particular selections to be frozen; 3) that the customer understands that she or he will be unable to make a change in service provider selection unless she or he lifts the preferred service provider

freeze; and 4) that the customer understands that any preferred carrier freeze may involve a charge to the customer.

(5) All local exchange service providers who offer preferred service provider freezes must, at a minimum, offer customers the following procedures for lifting a preferred service provider freeze:

i. A local exchange service provider administering a preferred service provider freeze must accept a customer's written and signed authorization stating her or his intent to lift a preferred service provider freeze; and

ii. A local exchange service provider administering a preferred service provider freeze must accept a customer's oral authorization stating her or his intent to lift a preferred carrier freeze and must offer a mechanism that allows a submitting service provider to conduct a three-way conference call with the service provider administering the freeze and the customer in order to lift a freeze. When engaged in oral authorization to lift a preferred service provider freeze, the service provider administering the freeze shall confirm appropriate verification data (e.g., the customer's date of birth or social security number) and the customer's intent to lift the particular freeze.

**22.23(3) *Carrier registration.***

*a. Registration required.* Each carrier that provides or bills for telecommunications services to customers located in Iowa shall register with the board and shall provide, at a minimum, the information specified in the form that appears in this subrule.

DEPARTMENT OF COMMERCE  
UTILITIES BOARD

**TELECOMMUNICATIONS SERVICE PROVIDER REGISTRATION**

1. FULL NAME OF CARRIER PROVIDING SERVICE IN IOWA:

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2. CARRIER MAILING ADDRESS (including 9-digit zip code):

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3. NAME, TITLE, TELEPHONE NUMBER, E-MAIL ADDRESS, AND FAX NUMBER  
OF CONTACT PERSON:

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4. ALL TRADE NAMES OR D/B/A'S USED BY CARRIER IN IOWA OR IN  
ADVERTISING OR BILLING THAT MAY REACH IOWA CUSTOMERS:

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5. NAME, MAILING ADDRESS, AND TELEPHONE NUMBER OF AGENT IN IOWA  
AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF CARRIER:

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6. TYPES OF TELECOMMUNICATIONS SERVICE PROVIDED (CHECK ALL THAT  
APPLY):

☐ LOCAL EXCHANGE SERVICE

☐ INTEREXCHANGE SERVICE

☐ DATA TRANSMISSION

☐ ALTERNATIVE OPERATOR SERVICES ONLY

☐ OTHER—PLEASE SPECIFY:\_\_\_\_\_

7. ATTESTATION. I, \_\_\_\_\_, certify that I am the company officer  
responsible for this registration, that I have examined the foregoing registration, and  
that to the best of my knowledge, information, and belief the information is accurate and  
will be updated as required.

Dated \_\_\_\_/\_\_\_\_/\_\_\_\_

SIGNATURE\_\_\_\_\_



*b. Failure to register.* Failure to file and reasonably update a registration, or provision of false, misleading, or incomplete information, may result in civil penalties under subrule 22.23(5) and may be considered as evidence of a pattern or practice of violation of these rules.

**22.23(5)** *Civil penalties and assessment of damages.*

*a. Civil penalties.* In addition to any applicable civil penalty set out in Iowa Code section 476.51, a service provider who violates a provision of the anti-slamming statute, a rule adopted pursuant to the anti-slamming statute, or an order lawfully issued by the board pursuant to the anti-slamming statute, is subject to a civil penalty, which, after notice and opportunity for hearing, may be levied by the board, of not more than \$10,000 per violation. Each violation is a separate offense.

*b. Amount.* A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the size of the service provider, the gravity of the violation, any history of prior violations by the service provider, remedial actions taken by the service provider, the nature of the conduct of the service provider, and any other relevant factors.

*c. Collection.* A civil penalty collected pursuant to this subrule shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the general fund of the state and to be used only for consumer education programs administered by the board.

*d. Exclusion from regulated rates.* A penalty paid by a rate-of-return regulated utility pursuant to this subrule shall be excluded from the utility's costs when determining the utility's revenue requirement and shall not be included either directly or indirectly in the utility's rates or charges to its customers.

e. *Civil actions.* The board shall not commence an administrative proceeding to impose a civil penalty under this rule for acts subject to a civil enforcement action pending in court under Iowa Code section 714D.7.

f. *Assessment of damages among interested persons.* As a part of formal complaint proceedings, the board may determine the potential liability, including assessment of damages, for unauthorized changes in service among the customer, the previous service provider, the executing service provider, the submitting service provider, and any other interested persons. In the event of a soft slam, the board may impose joint and several liability on the reseller and the facilities-based service provider. For purposes of this rule and in the absence of unusual circumstances, the term "damages" means charges directly relating to the telecommunications services provided to the customer that have appeared or may appear on the customer's bill. The term "damages" does not include incidental, consequential, or punitive damages.

**22.23(6)** *Penalties for patterns of violations.* If the board determines, after notice and opportunity for hearing, that a service provider has shown a pattern of violations of these rules, the board may by order do any of the following:

a. Prohibit any other service provider from billing charges to residents of Iowa on behalf of the service provider determined to have engaged in such a pattern of violations.

b. Prohibit certificated local exchange service providers from providing exchange access services to the service provider.

c. Limit the billing or access services prohibition under paragraph "a" or "b" above to a period of time. Such prohibition may be withdrawn upon a showing of good cause.

d. Revoke the certificate of public convenience and necessity of a local exchange service provider.

April 18, 2000

/s/ Diane Munns

Diane Munns  
Board Member